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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.               | CONFIRMATION NO.            |
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| 10/029,073   | 12/20/2001  | John Almeida         | 08-ALA-01                         | 5295                        |
| 24221  | 7590        | 01/10/2008           |                                   |                             |
| LOUIS VENTRE, JR<br>2483 OAKTON HILLS DRIVE<br>OAKTON, VA 22124-1530 |             |                      | EXAMINER<br>THEIN, MARIA TERESA T |                             |
|  |             |                      | ART UNIT<br>3627                  | PAPER NUMBER                |
|  |             |                      | NOTIFICATION DATE<br>01/10/2008   | DELIVERY MODE<br>ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/029,073

**Applicant(s)**

ALMEIDA, JOHN

**Examiner**

MARISSA THEIN

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 190-192, 194-195, 199-200, 234-235, 237-242, 249-255, 262, 267-268, 274-275 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 190-192; 194-195; 199-200; 234-235; 237-242; 249-255; 262; 267-268; 274-275.

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 201, 233, 236, 243-248, 256-261, 263-266, and 269-273 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 12, 2007 and October 28, 2007.

Applicant's has canceled claims 233, 236, 243-248, 256-261, 263-266, and 269-273 without traverse. New claims 274-275 has been added.

### ***Drawings***

The drawings filed on December 20, 2001 are acceptable.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 190-192, 194-195, 199-200, 234-235, 237-242, 249-255, 262, 267-268, and 274-275 are rejected under 35 U.S.C. §101 because the claimed invention is directed to a non statutory subject matter.

35 U.S.C. §101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture or composition of matter or new and useful improvement thereof" (emphasis added). Applicant's claims mentioned above are intended to embrace or overlap two different statutory classes of invention as set forth in 35 U.S.C. §101. The claim begins by discussing a network (ex. Preamble of

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claim 190), the body of the claim discusses the specifics of the system (at least a first computer) and computer readable medium (software element embedded on at least a tangible media) and method (a user interaction). (See rejection of claims under 35 U.S.C. §112, second paragraph, for specific details regarding this issue). "A claim of this type is precluded by express language of 35 U.S.C. §101 which is drafted so as to set forth statutory the statutory classes of invention in the alternative only", Ex parte Lyell (17USPQ2d 1548). Examiner suggests rewriting the claims as either being a system, a computer program product having executable instruction codes that are stored on a computer-readable medium, or a method claim. If Applicant claims a system, Applicant must include more than a first computer. For example, the system claim can comprise a computer configured....; a database configured.....; a server configured....., etc. If Applicant claims a computer readable medium, an example would be "a computer program product having executable instruction codes that are stored on a computer-readable medium" comprising: a code means for....., etc. If Applicant claims a method, the method should include steps or actions.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 190-192, 194-195, 199-200, 234-235, 237-242, 249-255, 262, 267-268, and 274-275 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 190, the recitation of “a third software element embedded...said third software element having virtual hosting means to virtually host said at least first content hosted by said first software element and said at least content hosted by said second software element; said third software element does not have said at least first content hosted by said first software element duplicated ...; said third software element does not have said at least second content hosted by said second software element...” are not supported by the original disclosure. The recitations of a first software element, a second software element and a third software element are not supported by the original disclosure. Furthermore, the recitations of a first and second content are not supported by the original disclosure. If Applicant thinks that these recitations are supported, Examiner suggest to Applicant to point out by page number and line number where the support is in the original disclosure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 190-192, 194-195, 199-200, 234-235, 237-242, 249-255, 262, 267-268, and 274-275 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Regarding claims 190-192, 194-195, 199-200, 234-235, 237-242, 249-255, 262, 267-268, and 274-275 is indefinite because the claims do not claim a statutory class. The preamble of the claim refers to a network which is not a statutory class but the body of the claim discusses one specific of the system (first computer) and subsequently the claim then deals with the some type of computer program product embedded in a computer readable medium (software element embedded on at least one tangible media) and some type of method step (a user interaction). Examiner will interpret and examine the claims as broadly as reasonable interpreted.

Claims 192, 194-195, 199-200, 234-235, 237-242, 249-255, 262, 267-268, and 274-275 are rejected as being dependent on claim 190 as discussed above.

Regarding claim 190, the recitations a first software element; a second software element; and a third software element is unclear. Is the software element a program?

Regarding claim 190, the recitation a first content and second content is unclear. What does Applicant means by first and second content?

Regarding claim 190, the recitations of "a third software element embedded....said third software element having virtual hosting means to virtually host said at least first content hosted by said first software element and said at least content hosted by said second software element; said third software element does not have said at least first content hosted by said first software element duplicated ...; said third software element does not have said at least second content hosted by said second

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software element..." are unclear and confusing. Is the third software hosting the first and second content or what?

Examiner will examine the claims as best understood.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 190-192, 194-195, 199-200, 234-235, 237-242, 249-255, 262, 267-268, and 274-275 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,269,632 to Edeker et al.**

Regarding claim 190, Edeker discloses a virtual network comprising a first computer having a first software element embedded on a tangible media, the first software element hosting a first content; a second software element hosting a second content; third software element having virtually hosting means to virtually host the first content hosted by the first software element and second content hosted by said second software element; and user interaction with said at least first content virtually hosted at the third software element; user interaction with the second content virtually hosted by the third software (col. 4, lines 44-64; col. 6, line 59-col. 7, line 27; col. 7, lines 43-61).



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Regarding claims 191-192, 194-195, 199-200, 234-235, 267-268, and 274-275, Edeker discloses the third element uses virtual hosting means and formats a content page; the second software element having virtual hosting to virtually host the first content and formats a content page; the second software element does not have the first content hosted by the first software element duplicated at its hosting means; a user interaction with said at least first content virtually hosted by the second software element; third software element hosting a third content; the first software element having means to manage the first content; the second software element having means to manage the second content; third software element having means to manage the third content; first software element, second software element and third software element has a distinct user interface; a single content category; and e-service related (col. 4, lines 30-64; col. 6, line 41-col. 7, line 27; col. 7, lines 43-61; col. 19, lines 54-col. 20, line 3; col. 20, lines 43-55; col. 23, line 46-col. 24, line 47)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 237-242, 249-255, and 262 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,269,632 to Edeker et al. in view of U.S. Patent Application Publication No. 2002/0113809 to Akazawa et al.**

Edeker substantially discloses the claimed invention, however, Edeker does not explicitly disclose database table having a column and a rows; identification means and keywords.

Akazawa, on the other hand, teaches database table having a column and a rows; identification means and keywords (paragraphs 43-45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the network to Edeker, to include table having a column and a rows; identification means and keywords, as taught by Akazawa, in order to derive an item of interest of a user and determine an item of interest of the user (Akazawa, paragraphs 44-45).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,789,090 to Miyake et al. discloses a virtual network displaying system.

U.S. Patent No. 2002/0178072 to Gusler et al. discloses an online shopping mall virtual association.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot  
January 7, 2008

/Michael Cuff/

Primary Examiner, Art Unit 3627